

Suggested Procedure for Conducting Becker Appeal Hearing

1. Call to Order.
2. Call the case of City of Coon Rapids v. Becker.
3. Ask counsel for the City to identify herself; ask Mr. Becker and his counsel (if present) to identify themselves.
4. Give brief description of the alleged violations.

Mr. Becker is alleged to be in violation of Coon Rapids City Code on November 19, 2015, when his property at 9526 Foley Blvd in Coon Rapids was inspected. The violations alleged here are:

- A. Having an Accessory Structure out of unapproved material. Tent type accessory structures are prohibited in violation of City Code section 12-309(5).
- B. Fail to display current vehicle registration on Red Truck with MN license plate number 112JLC, or remove from exterior storage in violation of City Code section 11-601.5.
- C. Having more than two recreational vehicles on a property. Only two major recreation vehicles are allowed. There were a boat, jet-ski, camper and RV in violation of City Code section 11-601.3(1)(c).
- D. Vacate accessory structures that are being occupied by tenants. No one may live in any structure other than the residential dwelling in violation of City Code sections 12-313.
- E. Having more than two trailers on the property. Only two trailers are allowed and there were two enclosed trailers and four utility trailers in violation of City Code section 11-601.4(d).
- F. Fail to display current vehicle registration on utility trailer with MN license plate number B23-381, or remove from exterior storage in violation of City Code section 11-601.5
- G. Fail to display current vehicle registration on enclosed trailer with MN license plate number T1097F, or remove from exterior storage in violation of City Code section 11-601.5

Mr. Becker was ordered to correct the violations on or before the compliance date of December 1, 2015. The fine payments were stayed until disposition of the case or would have been waived if compliance was achieved by the deadline. Mr. Becker filed an appeal on November 24, 2015. He had an informal hearing on January 13, 2016 with the

City's hearing examiner. The examiner affirmed the citations in their entirety in writing on March 1, 2016. Mr. Becker appeals that determination to this board. A hearing was set for April 7, 2016, to hear the appeal and was continued to June 2, 2016 at Mr. Becker's request.

5. Mr. Becker may now admit the violations, or deny the violations and proceed to a hearing. If he wishes to admit the violations, the Chair will ask for a recommendation first from the City Attorney, then Mr. Becker or his representative, then deliberate on the appropriate disposition.

If Mr. Becker wishes to continue to deny the violations:

6. The Chair will give a brief description of the procedure to be followed for this hearing:

A. The City has the burden to prove, by a preponderance of the evidence, that these violations occurred on November 19, 2015.

B. Prior to taking testimony, the Chair will allow the parties to make opening statements. This is not the time to argue the case, but only for each party to indicate to the Board what it intends to offer by way of evidence as regards the allegations. A party may waive an opening statement. The City's representative goes first, followed by Mr. Becker. Mr. Becker may also reserve his opening statement until he presents his case in chief.

C. The Chair will then swear all witnesses that may be called to testify in this case. Witnesses will be asked to stand, raise their right hands, and take an oath to tell the truth. A prospective witness will be deemed to be sworn in for the duration of the hearing, including any adjournments.

D. The City will begin with its case in chief. It may call witnesses and offer exhibits to the Board to prove the violations. Mr. Becker or his counsel may offer legal objections to evidence. The Chair will sustain or overrule any objections after hearing from both parties. If an objection to a question is sustained, a witness shall not answer it. Any evidence in the record to which the Chair has sustained an objection will be disregarded by the Board. Mr. Becker will have an opportunity to ask questions of any witness called by the City.

E. When the City has finished its case in chief, it will rest its case on the record, and Mr. Becker may proceed with his opening statement, if it had been reserved, then any evidence he may wish to offer regarding the violations. Again, this is a time for offering facts into evidence, not for argument. The City has the same right to object to evidence, with ruling by the Chair, and ask questions of Mr. Becker witnesses.

F. When Mr. Becker has rested his case, the City may offer evidence to rebut any evidence Mr. Becker has offered. When the City has finished, Mr. Becker may offer sur-rebuttal evidence, but it must be limited to the City's rebuttal.

G. When both parties have rested, the Chair will request closing arguments, first from the City, and then from Mr. Becker.

H. The Board will deliberate on the violations. If it affirms any or all of the violations, it will issue an order and set a compliance date by which the violation or violations must be corrected.

Two other procedural notes:

I. If a party wishes to offer an exhibit such as a document or a photograph that has not been pre-sent to the Board and the other party, it will need to be marked by the Chair. Appellant's exhibits shall begin with an "A" followed by a unique number such as "A-12." Respondent's exhibits shall begin with "R." An exhibit must be shown to the opposing party or counsel before offering it to the Chair. The Chair will ask if there is any objection to the exhibit before receiving it.

H. This proceeding will be recorded by video and audio equipment, so it is important not to speak when anyone else is talking, except to make an objection, and when speaking, to use good diction so that if the hearing needs to be transcribed for appeal, the transcription can be accurate.

J. Parties and witnesses must direct all statements and arguments to the Chair, not to opposing counsel or witnesses, unless they are asking a witness a question.

6. Motion to Adopt Procedure for Hearing should be entertained after either party has provided comment.

7. Conduct the hearing.

A. Opening Statement from the City.

B. Opening Statement from Mr. Becker (unless reserved or waived).

C. Swear all witnesses. ("All persons who may testify in this hearing must now rise and raise your right hands to be sworn. You do swear that the testimony you are about to give will be true, so help you God? Be seated.")

D. City's case in chief.

E. Mr. Becker's opening statement (if reserved).

F. Mr. Becker's case in chief.

G. City's rebuttal (if any).

H. Mr. Becker's rebuttal (if any).

I. City's closing argument.

J. Mr. Becker's closing argument.

H. Deliberation and Determination.

8. Adjourn.